

### **REMARKS**

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. The foregoing amendments are fully supported by the original specification and claims, at least, in original claims 1 and 2, in paragraphs [0035] and [0062], and example 2. No new matter is added.

#### ***Amendments***

Claims 1-6 and 9 are withdrawn. Claim 7 has been amended and claims 10-18 have been added.

#### ***Objection to the Claims***

At page 2 of the Office Action, Claims 7-8 were objected to because they allegedly are dependent on a non-elected claim. Applicants respectfully request reconsideration of this objection.

Claim 7 has been amended so that it is independent.

For at least the foregoing reasons, Applicants respectfully submit that Claims 7-8 are not objectionable, and therefore respectfully requests withdrawal of the objection thereto.

#### ***Rejection under 35 U.S.C. § 101***

In the Office Action, beginning at page 3, Claims 7-8 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants respectfully request reconsideration of this rejection.

Claim 7 has been amended to indicate that the bacterium is isolated, which clearly removes it from the realm of nature and implicates the 'hand of man'.

For at least the foregoing reasons, Applicants respectfully submits that Claims 7-8

are directed to statutory subject matter, and therefore respectfully request withdrawal of the rejection thereof under 35 U.S.C. § 101.

***Rejection under 35 U.S.C. § 112, second paragraph***

In the Office Action, beginning at page 3, Claims 7-8 were rejected under 35 U.S.C. § 112, second paragraph, as reciting subject matters that allegedly are indefinite. Applicant respectfully requests reconsideration of this rejection.

Claim 7 has been amended to clarify that the bacterium does have a reduced ability to produce a polysaccharide as compared with a wild-type strain, and that the gene of SEQ ID NO: 1 is disrupted so that expression of the gene is suppressed. Furthermore, the homology language has been clarified by adding the specific stringent conditions for hybridization.

For at least the foregoing reasons, Applicants respectfully submit that Claims 7-8 fully comply with 35 U.S.C. § 112, second paragraph, and therefore respectfully request withdrawal of the rejection thereof under 35 U.S.C. § 112.

***Rejection under 35 U.S.C. § 102***

In the Office Action, beginning at page 4, Claims 7-8 were rejected under 35 U.S.C. § 102(b), as reciting subject matters that allegedly are anticipated by NCIMB Culture Collection. Applicant respectfully requests reconsideration of this rejection.

Claim 7 has been amended to specify that bacterium of the present invention is not the wild-type bacterium. As it is the wild-type *Methlophilus methylotrophus* AS1 strain that is taught by the prior art, and the claim clearly does not encompass the wild-type, but is a mutant of the wild-type which has a reduced ability to produce a polysaccharide by virtue of a gene disruption to suppress expression of a particular gene, the claims are not anticipated by the cited prior art.

For at least the foregoing reasons, Applicants respectfully submit that the subject

matters of Claims 7-8 are not anticipated by NCIMB Culture Collection, are therefore not unpatentable under 35 U.S.C. § 102, and therefore respectfully request withdrawal of the rejection thereof under 35 U.S.C. § 102.

***Conclusion***

For at least the foregoing reasons, Applicants respectfully submit that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Gangle believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, he is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

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